



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

SEP 26 2013

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Todd Siebenaler  
Spectro Alloys Corporation  
13220 Doyle Path  
Rosemount, Minnesota 55068

Re: Spectro Alloys Corporation

Dear Mr. Siebenaler:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Spectro Alloys Corporation (Spectro), Clean Air Act Docket No. CAA-05-2013-0044. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on SEP 26 2013.

Pursuant to paragraph 40 of the CAFO, Spectro must pay the civil penalty within 30 days of SEP 26 2013. Your check or electronic funds transfer must display the case name Spectro Alloys Corporation, and the docket number, CAA-05-2013-0044.

Please direct any questions regarding this case to Padmavati Bending, Associate Regional Counsel, (312) 353-8917.

Sincerely,

A handwritten signature in cursive script that reads "Brian Dickens".

Brian Dickens  
Chief  
Air Enforcement and Compliance Assurance Branch MN/OH

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	<b>Docket No. CAA-05-2013-0044</b>
	)	
<b>Spectro Alloys Corporation</b>	)	<b>Proceeding to Assess a Civil Penalty</b>
<b>Rosemount, Minnesota,</b>	)	<b>Under Section 113(d) of the Clean Air Act,</b>
	)	<b>42 U.S.C. § 7413(d)</b>
<b>Respondent.</b>	)	
_____	)	

**Consent Agreement and Final Order**

**Preliminary Statement**

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.
2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.
3. Respondent is Spectro Alloys Corporation (Spectro), a corporation doing business in Minnesota.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO), as provided at 40 C.F.R. § 22.13(b).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.
6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

### **Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

### **Statutory and Regulatory Background**

9. Section 502(d)(1) of the Act, 42 U.S.C. § 7661a(d)(1), requires each State to develop and submit to EPA an operating permit program which meets the requirements of Title V.

10. EPA granted interim approval to Minnesota's Title V program on June 16, 1995, effective July 16, 1995. 60 Fed. Reg. 31637.

11. EPA proposed final approval of Minnesota's Title V program on October 30, 2001. 66 Fed. Reg. 54739.

12. EPA granted Minnesota final approval of its Title V Clean Air Act Permit Program, effective November 30, 2001. 66 Fed. Reg. 62967. 40 C.F.R. Part 70, Appendix A.

13. Title V regulations at 40 C.F.R. § 70.3 provide that the requirements of Part 70 apply to any major source located in a state that has received whole or partial approval of its Title V program.

14. Title V regulations at 40 C.F.R. § 70.6(b)(1) specifies that all terms and conditions in a permit issued under a Part 70 program, including any provisions designed to limit a source's potential to emit, are enforceable by the EPA under the Act.

15. Under Section 112 of the CAA, the Administrator of EPA promulgated the General Provisions of the NESHAP at 40 C.F.R. Part 63, Subpart A; 40 C.F.R. § 63.1 – 63.16 on March 16, 1994. 59 Fed. Reg. 12430 (March 16, 1994).

16. 40 C.F.R. § 63.2 defines “major source” as, for pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any HAP which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule.

17. Effective March 23, 2000, EPA promulgated regulations governing the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Secondary Aluminum Production in 40 C.F.R. Part 63, Subpart RRR. 65 Fed. Reg. 15710 (March 23, 2000).

18. Pursuant to the NESHAP at 40 C.F.R. § 63.1501, the owner or operator of an existing affected source must comply with the requirements of Subpart RRR by March 24, 2003; and the owner or operator of a new affected source that commences construction or reconstruction after February 11, 1999, must comply with the requirements by March 24, 2000, or upon startup, whichever is later.

19. Subpart RRR applies to owners and operators of each secondary aluminum production facility and secondary aluminum processing unit, including new and existing aluminum scrap shredders.

20. An aluminum scrap shredder, as that term is defined at 40 C.F.R. § 63.1503, means a unit that crushes, grinds, or breaks aluminum scrap into a more uniform size prior to processing or charging to a scrap dryer/delacquering kiln/decoating kiln, or furnace.

21. The NESHAP, at 40 C.F.R. § 63.1505 (b)(1), requires that on and after the compliance date established by § 63.1501, the owner or operator of an aluminum scrap shredder at a secondary aluminum production facility that is a major source must not discharge or cause to be discharged to the atmosphere emissions in excess of 0.010 grain (gr) of PM per dry standard cubic foot (dscf).

22. The NESHAP, at 40 C.F.R. § 63.1511 (e), requires that each owner or operator of affected sources and emission units located at secondary aluminum production facilities that are major sources conduct a performance test every 5 years following the initial performance test.

23. The General Provisions of the NESHAP, at 40 C.F.R. § 63.6(e)(1)(i), require that at all times, including periods of startup, shutdown, and malfunction, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions.

24. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$295,000 for violations that occurred after January 12, 2009 under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

#### **Factual Allegations and Alleged Violations**

25. Spectro owns and operates the facility located at 13220 Doyle Path East, Rosemount, Minnesota (Facility).

26. Spectro emits dioxins and furans and hydrochloric acid, which are HAPs listed under Section 112(b) of the Act, 42 U.S.C. § 7412(b).

27. Spectro is a “major source” for HAP.

NESHAP at 40 C.F.R. § 63.1505(b)(1) during its January 8-9, 2013 performance test at the Hammermill baghouse.

35. In response to the FOV, EPA and Spectro participated in a conference call on April 22, 2013. Both before and after this call, Spectro provided EPA with information and documentation of actions taken by Spectro to correct the issues identified in the FOV. The information and documentation provided by Spectro included a revised draft Operations and Maintenance, Startup, Shutdown, and Malfunction Plan (OM&M-SSM Plan), records indicating when the Hammermill was running between January 8<sup>th</sup> and March 20<sup>th</sup>, 2013, and records measuring the pressure drop in the Hammermill for the period from October 2012 through March 2013.

36. Spectro retested the Hammermill baghouse on March 19-20, 2013 and reported PM emissions of 0.00025 gr/dscf to EPA on April 24, 2013.

37. Spectro's operational records indicate Spectro operated the Hammermill for 1,073 hours during the period January 8<sup>th</sup> to March 20<sup>th</sup>, 2013.

38. EPA alleges that Spectro emitted particulate matter in violation of limits contained in its Title V permit 03700066-001 and the NESHAP at 40 C.F.R. § 63.1505(b)(1) during the period January 8, 2013 to March 20, 2013.

39. EPA alleges that Spectro failed to ensure its baghouse bags were in good working condition prior to the January 8-9, 2013 performance test, in violation of the NESHAP at 40 C.F.R. § 63.6(e)(1)(i).

#### **Civil Penalty**

40. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case, execution of an Administrative Consent Order, Spectro's

cooperation, and Spectro's prompt return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is \$52,588.

Within 30 days after the effective date of this CAFO, Respondent must pay a \$52,588 civil penalty by FedWire electronic funds transfer, payable to "Treasurer, United States of America," and send to:

Federal Reserve Bank of New York  
ABA No. 021030004  
Account No. 68010727  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read:  
"D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state Respondent's name, the docket number of this CAFO.

41. Respondent must send a notice of payment that states Respondent's name, the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Attn: Compliance Tracker (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

Padmavati Bending (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

42. This civil penalty is not deductible for federal tax purposes.

43. If Respondent does not pay timely the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

44. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

#### **General Provisions**

45. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO. Compliance with the terms of this CAFO shall constitute full satisfaction of any liability of Respondent for Federal civil penalties for the violations alleged in this CAFO.

46. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

47. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state and local laws. Except as provided in paragraph 45, above,



compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

48. To the best of Respondent's knowledge, Respondent certifies that it is complying fully with the Clean Air Act.

49. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

50. The terms of this CAFO bind Respondent, its successors and assigns.

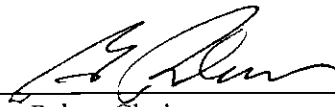
51. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

52. Each party agrees to bear its own costs and attorneys fees in this action.

53. This CAFO constitutes the entire agreement between the parties.

**Spectro Alloys Corporation, Respondent**

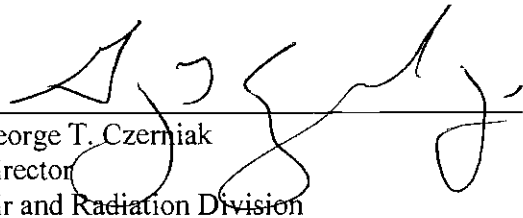
9/19/13  
Date

  
Greg Palen, Chairman  
Spectro Alloys Corporation

Larry Can  
EHS/HR Mgr 9/19/13

**United States Environmental Protection Agency, Complainant**

9/24/13  
Date

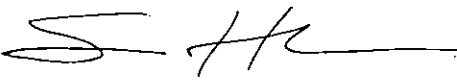
  
George T. Czerniak  
Director  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5

**Consent Agreement and Final Order**  
**In the Matter of: Spectro Alloys Corporation**  
**Docket No. CAA-05-2013-0044**

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

9-26-13  
Date

  
\_\_\_\_\_  
Susan Hedman  
Regional Administrator  
U.S. Environmental Protection Agency  
Region 5

Consent Agreement and Final Order  
In the Matter of: Spectro Alloys Corporation  
Docket No. CAA-05-2013-0044

Certificate of Service

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number [ CAA-05-2013-0044 ] with the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed the second original copy to Respondent by first-class, postage prepaid, certified mail, return receipt requested, by placing it in the custody of the United States Postal Service addressed as follows:

Todd Siebenaler  
Spectro Alloys Corporation  
13220 Doyle Path  
Rosemount, Minnesota 55068

I certify that I delivered a correct copy of the CAFO by intra-office mail, addressed as follows:

John Breslin  
Acting Regional Judicial Officer  
U.S. Environmental Protection Agency  
77 W. Jackson Boulevard / Mail Code C-14J  
Chicago, Illinois 60604

On the 26 day of September 2013.



Loretta Shaffer  
Administrative Program Assistant  
AECAB, Planning and  
Administration Section

CERTIFIED MAIL RECEIPT NUMBER:

7009 1680 0000 7669 5770